

Court of Appeals, State of Michigan

ORDER

People of MI v Thomas James Earls

Docket No. 281248

LC No. 05-006016-FC

Kirsten Frank Kelly
Presiding Judge

Kurtis T. Wilder

Elizabeth L. Gleicher
Judges

In a prior unpublished opinion issued on December 21, 2010, this Court vacated the trial court's order denying further appointment of appellate counsel for defendant, remanded the matter for an explicit determination regarding whether defendant wished to pursue his claim of appeal with appointed appellate counsel, and retained jurisdiction over this appeal. The trial court conducted a hearing on January 14, 2011, and subsequently appointed attorney Terence R. Flanagan to represent defendant in this appeal. Thus, the remand proceeding is concluded, and the matter is now before this Court.

We order that the briefs previously filed by defendant and the prosecution are to be STRIKEN in light of the appointment of appellate counsel, who shall file a brief on defendant's behalf within 56 days from the Clerk's certification of this order. Attorney Flanagan is allowed to exercise reasonable professional judgment in selecting those issues most promising for review, and is not required to advance every argument urged by defendant. See *Jones v Barnes*, 463 US 745, 751; 103 S Ct 3308; 77 L Ed 2d 987 (1983); *People v Reed*, 198 Mich App 639, 646-647; 499 NW2d 441 (1993), aff'd 449 Mich 375 (1995). Should attorney Flanagan choose to not raise an issue requested by defendant, then defendant may file a Standard 4 brief in accordance with the procedure and deadlines contained within Administrative Order 2004-6.

The prosecution's brief is due 35 days from the date of service of appellant's brief. The prosecution may file a supplemental brief in response to any Standard 4 brief filed by defendant within 35 days of the date of service of the Standard 4 brief.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

APR 11 2011

Date


Chief Clerk